

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

PART 2013—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

AUTHORITY: 42 U.S.C. 2201; 42 U.S.C. 5841; and 41 U.S.C. 418(b).

Subpart 2013.5—Purchase Orders

2013.505-2 Agency order forms in lieu of Optional Forms 347 and 348.

NRC Form 103, Purchase Order, is prescribed for use by the NRC in lieu of Optional Forms 347 and 348.

[57 FR 61165, Dec. 23, 1992]

PART 2014—SEALED BIDDING

Subpart 2014.2—Solicitation of Bids

Sec.

2014.201 Preparation of invitation for bids.

2014.201-670 Solicitation provisions.

Subpart 2014.4—Opening of Bids and Award of Contract

2014.406 Mistakes in bids.

2014.406-3 Other mistakes disclosed before award.

AUTHORITY: 42 U.S.C. 2201; 42 U.S.C. 5841; and 41 U.S.C. 418(b).

SOURCE: 57 FR 61165, Dec. 23, 1992, unless otherwise noted.

Subpart 2014.2—Solicitation of Bids

2014.201 Preparation of invitation for bids.

2014.201-670 Solicitation provisions.

(a) The contracting officer shall insert the provision at 2052.214-70, Prebid Conference, in Invitations for Bids (IFB) where there will be a prebid conference. This provision may be altered by the contracting officer to fit circumstances.

(b) The cognizant contracting officer shall insert in all invitations for bids, except as noted, the provisions at:

(1) Section 2052.214-71, Bidder Qualifications and Past Experiences. (optional, to fit circumstances)

(2) Section 2052.214-72, Bid Evaluation (paragraph f. is optional).

(3) Section 2052.214-73, Timely Receipt of Bids.

(4) Section 2052.214-74, Disposition of Bids.

Subpart 2014.4—Opening of Bids and Award of Contract

2014.406 Mistakes in bids.

2014.406-3 Other mistakes disclosed before award.

(a) The Director, Division of Contracts and Property Management, is delegated the authority to make the determinations concerning mistakes in bids, including those with obvious clerical errors, discovered prior to award. These determinations will be concurred in by legal counsel prior to notification of the bidder.

(b) The cognizant contracting officer is delegated the authority to make determinations concerning mistakes disclosed after award in accordance with FAR 14.406-4.

PART 2015—CONTRACTING BY NEGOTIATION

Subpart 2015.4—Solicitation and Receipt of Proposals and Quotations

Sec.

2015.407-70 Solicitation provisions and contract clauses.

2015.413 Disclosure and use of information before award.

2015.413-2 Alternate II.

Subpart 2015.5—Unsolicited Proposals

2015.506 Agency procedures.

2015.506-1 Receipt and initial review.

2015.506-2 Evaluation.

2015.507 Contracting methods.

Subpart 2015.6—Source Selection

2015.602 Applicability.

2015.604 Responsibilities.

2015.605 Evaluation factors.

Nuclear Regulatory Commission

2015.506

- 2015.607 Disclosure of mistakes before award.
- 2015.608 Proposal evaluation.
- 2015.610 Written or oral discussions.
- 2015.611 Best and final offers.
- 2015.612 Sources Evaluation Panel structure.
- 2015.670 Contract provisions.

AUTHORITY: 42 U.S.C. 2201; 42 U.S.C. 5841; and 41 U.S.C. 418(b).

SOURCE: 57 FR 61166, Dec. 23, 1992, unless otherwise noted.

Subpart 2015.4—Solicitation and Receipt of Proposals and Quotations

2015.407-70 Solicitation provisions and contract clauses.

(a) The contracting officer shall insert in Requests for Proposals (RFPs) the provisions at:

- (1) Section 2052.215-70, Key Personnel;
- (2) (i) Section 2052.215-71, Project Officer Authority (for solicitations for cost-reimbursement, cost-plus-fixed-fee, cost-plus-award-fee, cost-sharing, labor-hour or time-and-materials, including task order contracts);
(ii) Section 2052.215-72, Project Officer Authority—Alternate 1 (for solicitations for issuance of delivery orders for specific products/services);
(iii) Section 2052.215-73, Project Officer Authority—Alternate 2 with paragraph (b)(1) deleted and the remainder of the clause renumbered (for solicitations for firm fixed price contracts);
(iv) The provision, 2052.215-71, and Alternates 1 and 2 are intended for experienced, trained project officers, and may be altered to delete duties where appropriate.

(3) Section 2052.215-74, Timely Receipt of Proposals;

(4) Section 2052.215-75, Award Notification and Commitment of Public Funds; and

(5) Section 2052.215-76, Disposition of Proposals.

(b) The contracting officer shall insert in all solicitations for negotiated procurements for cost type contracts that do not provide for task orders or delivery orders, the provision at 2052.215-77, Proposal Presentation and Format, except that:

(1) For all solicitations for negotiated task order contracts, paragraphs

(e)(4) (xi) and (xii) must be deleted (and the remainder renumbered), and the paragraph found at 2052.215-78—Alternate 1, must be substituted for paragraph (d)(2).

(2) 2052.215-79—Alternate 2. For all negotiated procurements for a fixed-price, labor-hour, or time-and-materials contract, paragraph (d)(2) shall be deleted from the provision 2052.215-77.

These provisions must be tailored to assure that all sections, but in particular paragraph (e), Technical and Management Proposal, reflect a one-to-one relationship to the evaluation criteria.

(c) The contracting officer shall insert the provision at 2052.215-80, Preproposal Conference, in RFPs where there will be a preproposal conference. This provision may be altered to fit the circumstances of the requirement.

(d) The contracting officer shall insert the clauses at 2052.215-81, Travel Reimbursement, and 2052-215-83, Travel Approvals, in RFPs where there will be travel. For contracts where there is no ceiling amount on domestic travel, the provision found at 2052.215-82, Travel Reimbursement—Alternate 1 shall be used with paragraph (a) deleted and the remainder of the clause renumbered.

[58 FR 26253, May 3, 1993]

2015.413 Disclosure and use of information before award.

2015.413-2 Alternate II.

The procedures discussed at FAR 15.413-2 may be used if approved at a level above the contracting officer.

Subpart 2015.5—Unsolicited Proposals

2015.506 Agency procedures.

(a) The Division of Contracts and Property Management, Policy Branch (PB), is the point of contact for the receipt, acknowledgement, and handling of unsolicited proposals.

(b) Unsolicited proposals in original and two copies, and requests for additional information regarding their preparation must be submitted to: Chief, Policy Branch, Division of Contracts and Property Management, Mail Stop P-1118, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

This will ensure that the proposal is logged into the unsolicited proposal tracking system.

2015.506-1 Receipt and initial review.

(a) PB shall acknowledge receipt of an unsolicited proposal, complete a preliminary review, assign a docket number, and send copies of the unsolicited proposal to the appropriate program office Director(s) or designee for evaluation.

(b) PB shall be responsible for controlling reproduction and distribution of proposal material by notifying evaluators of their responsibilities and tracking the number of proposals received and forwarded to evaluators.

(c) An acknowledgement letter will be sent to the proposer by the PB, providing an estimated date for a funding decision or identifying the reasons for non-acceptance of the proposal for review in accordance with FAR 15.503 and 15.505.

2015.506-2 Evaluation.

Directors of NRC offices shall conduct comprehensive technical evaluations of proposals submitted to them by the PB, in accordance with the criteria discussed in FAR 15.506-2(a).

2015.507 Contracting methods.

If a noncompetitive contract is recommended, the Director of the recommending NRC office shall submit to the Division of Contracts and Property Management a written evaluation, Request for Procurement Action (RFPA) and Justification for Other Than Full and Open Competition in accordance with FAR 15.507(b)(5).

Subpart 2015.6—Source Selection

2015.602 Applicability.

This subpart does not apply to contracts awarded to the Small Business Administration under Section 8(a) of the Small Business Act.

2015.604 Responsibilities.

(a) All persons participating in the evaluation process may not discuss or reveal information concerning the evaluations except to an individual participating in the same evaluation

proceeding, and then only to the extent that the information is required in connection with the proceeding. Divulging information during evaluation, selection, and negotiation phases of the acquisition to offerors or to other persons not having a need to know could jeopardize the resultant award and violates the information-disclosure provisions of FAR 3.104, Procurement Integrity. These provisions carry criminal as well as civil and administrative penalties. Only the contracting officer (or authorized representative within the Division of Contracts and Property Management) may release source selection information to others during the selection process. The contracting officer (or authorized representative) shall instruct all participants in the evaluations to observe the prohibitions of the Procurement Integrity Act. A procurement official certification must be signed for each agency employee personally and substantially involved in preparing or approving the advance procurement plans, statement of work and participating in the source evaluation process [i.e. serving as a member of the Source Evaluation Panel (SEP)].

(b) All persons participating in the evaluation process shall declare any financial or other relationships which may create conflict of interest problems with their evaluation duties. A form for this purpose must be signed prior to receipt of any proposals or participation in discussion of proposals.

(c) Only the contracting officer (or authorized representative within the Division of Contracts and Property Management) may conduct discussions with offerors relative to any aspect of the acquisition. The contracting officer may include other personnel in discussions, as necessary.

[57 FR 61166, Dec. 23, 1992; 58 FR 8449, Feb. 12, 1993]

2015.605 Evaluation factors.

The evaluation criteria included in the solicitation serve as the standard against which all proposals are evaluated, and are the basis for the development of proposal preparation instructions, in accordance with 2015.407-70(b). Indication in the solicitation of the relative importance of evaluation factors and subfactors is accomplished by

the assignment of a numerical weight to each. For those factors that will not be numerically weighted, only their relative importance will be stated in the solicitation. Examples of factors which may not be numerically weighted are conflict of interest, estimated cost, and business evaluations, and "go/no go" evaluation factors.

[57 FR 61166, Dec. 23, 1992; 58 FR 8450, Feb. 12, 1993]

2015.607 Disclosure of mistakes before award.

(a) The contracting officer shall require that the offeror's clarification(s) provided in accordance with FAR 15.607 be in writing.

(b) A correction of a mistake in a proposal may be made only after a written determination to permit it has been made by the contracting officer.

2015.608 Proposal evaluation.

(a) A Source Evaluation Panel (SEP) shall evaluate technical proposals in accordance with the solicitation technical evaluation criteria. The SEP prepares and signs the Competitive Range Report with the SEP's findings and scoring for each technical proposal together with its analysis of cost and other factors and forwards the report for the review and approval of the Designating Official. The contracting officer uses this technical evaluation and analysis of costs and other factors in determining the competitive range.

(b) The Designating Official (Office Director or designee) is responsible for appointing the SEP and is responsible for conducting an independent review and evaluation of the SEP's two primary products after proposal evaluation: the Competitive Range Report and the Final Evaluation Report. Any cancellation of solicitations and subsequent rejection of all proposals must be approved by the Head of the Contracting Activity.

2015.610 Written or oral discussions.

The contracting officer shall point out to each offeror within the competitive range any deficiencies including ambiguities or uncertainties in its proposal. The discussions are intended to assist the SEP in understanding the proposals and their strengths and

weaknesses based upon the individual efforts of each offeror to ensure that the meaning and emphasis of solicitation provisions have been adequately conveyed to the offerors so that all offerors are competing equally on the basis intended by the Government.

2015.611 Best and final offers.

The SEP evaluates the technical proposal portion of the best and final offers. Technical proposals will be recorded and rescored by the SEP, as appropriate, and a Final Evaluation Report of the SEP's findings and scoring for each technical proposal will be prepared and forwarded to the Designating Official for review and approval prior to submission to the contracting officer for final approval. The report will include a summary of the technical analysis of costs as a part of the analysis of the technical proposals. The SEP's individual evaluation worksheets and summary score sheet must accompany the Final Evaluation Report and will become part of the official file.

[57 FR 61166, Dec. 23, 1992; 58 FR 8450, Feb. 12, 1993]

2015.612 Source Evaluation Panel structure.

(a) For all proposed contracts with total estimated values in excess of \$25,000 and expected to result from competitive technical and price/cost negotiations, the cooperative review efforts of technical, contracting, and other administrative personnel are formalized through the establishment of a SEP.

(b)(1) The SEP includes:

(i) At least three technical members (one of whom serves as the chairperson) who participate in the scoring of proposals using weighted evaluation criteria and evaluating proposals using other unweighted factors; and

(ii) A contract negotiator who ensures that procurement rules and regulations are followed, ensures that the integrity of the process is maintained, and negotiates the contract on behalf of the NRC.

(2) Except in unusual cases, the SEP should not exceed five members including the Chairperson. The technical members are usually employees of the

NRC program office initiating the request or other NRC employees with expertise in areas related to the solicitation Statement of Work. Appointment of a technical member from other than the office initiating the request is encouraged. Employees of other agencies with expertise in a specific area may also serve as SEP technical members not withstanding the fact that they are not employees of the NRC. Evaluators need not be Federal employees, but the potential for conflict of interest must be carefully considered in these cases and the solicitation should notify offerors of the NRC's intent to use non-Federal evaluators. The CO will make a determination whether or not a non-federal evaluator will be a voting SEP member. For proposed procurements with a total estimated cost of less than \$500,000 over a performance period of three years or less, a single technical member may be appointed to evaluate proposals with the contracting officer's approval. Designation of SEP members is accomplished by memorandum initiated by the director of the program office or the director's designee. This official is referred to as the Designating Official (DO).

(c) The SEP chairperson may obtain the services of advisors (e.g., legal, financial, etc.) to assist the SEP. Advisors who serve on technical evaluation committees are appointed in writing by the DO. Advisors are not SEP members, and therefore do not score proposals. Advisors need not be Federal employees, but the potential for conflict of interest must be carefully considered in these cases, and the solicitation should notify offerors of the NRC's intent to use non-Federal advisors.

(d) The contracting officer shall establish the competitive range on all acquisitions. This is accomplished by approval of the SEP's written recommendation transmitted by the DO.

(e) The source selection official is the contracting officer. Selection is made based on review of the SEP's recommendations as endorsed by the DO, together with all supporting data to ensure that award is in accordance with sound procurement principles and directly related to the evaluation criteria as set forth in the solicitation. Any proposed selection not endorsed by

the DO will be concurred in by the Head of the Contracting Activity.

2015.670 Contract provisions.

(a) The contracting officer shall include the provision found at 2052.215–84, Contract Award and Evaluation of Proposals, in all solicitations where technical is more important than cost:

(1) The contracting officer shall substitute the paragraph found at 2052.215–85 for paragraph (b) in all solicitations for negotiated competitive procurements where cost is more important than technical merit.

(2) The contracting officer shall substitute the paragraph found at 2052.215–86 for paragraph (b) in all solicitations for negotiated competitive procurements where cost and technical merit are of equal significance.

(b) The contracting officer may make appropriate changes to the provision to accurately reflect other evaluation procedures, such as evaluation of proposals against mandatory criteria and benchmarking criteria for ADP procurements.

[58 FR 26254, May 3, 1993]

PART 2016—TYPES OF CONTRACTS

Subpart 2016.3—Cost Reimbursement Contracts

Sec.

2016.307–70 Contract provisions and clauses.

Subpart 2016.5 Indefinite-Delivery Contracts

2016.506–70 Contract provisions and clauses.

AUTHORITY: 42 U.S.C. 2201; 42 U.S.C. 5841; and 41 U.S.C. 418(b).

SOURCE: 57 FR 61168, Dec. 23, 1992, unless otherwise noted.

Subpart 2016.3—Cost Reimbursement Contracts

2016.307–70 Contract provisions and clauses.

(a) The contracting officer shall insert the clause at 2052.216–70, Level of Effort, in solicitation for negotiated procurements containing labor costs other than maintenance services, to be awarded on a cost reimbursement, cost